

PHILLIP A. TALBERT
United States Attorney
KIMBERLY A. SANCHEZ
Assistant United States Attorney
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Telephone: (559) 497-4000
Facsimile: (559) 497-4099

Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

GERARDO DIEGO PEREZ, AND
LUIS PEREZ,

Defendants.

CASE NO. 1:21-CR-00185-JLT-BAM

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
FINDINGS AND ORDER

DATE: September 13, 2023
TIME: 1:00 p.m.
COURT: Hon. Barbara A. McAuliffe

BACKGROUND

This case is set for a status conference on September 13, 2023. By this stipulation, the parties move to continue the status conference to January 24, 2024 at 1:00 p.m. before the Honorable Barbara A. McAuliffe, U.S. Magistrate Judge, and to exclude time between September 13, 2023 and January 24, 2024, inclusive.

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant's counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for status conference on September 13, 2023.
2. By this stipulation, defendant now moves to continue the status conference until January 24, 2024, and to exclude time between September 13, 2023, and January 24, 2024, under 18 U.S.C. § 3161(h)(7)(A), B(iv) .

3. The parties agree and stipulate, and request that the Court find the following:

a) The government has represented that the discovery associated with this case includes thousands of pages of written discovery, including investigative reports, investigative filings and warrants, warrant and subpoena returns, wire and electronic intercepts, pole camera footage, photographs, and financial records, and several terabytes of electronic data, including wire intercepts and pole camera footage. All of this discovery has been produced directly to counsel for defendants.

b) Counsel for defendants desire additional time to review the voluminous discovery, discuss the charges with their clients, and conduct additional investigation. Additionally, counsel for Luis Perez has been in trial preparations and trial for a portion of the time since the last stipulation, and counsel for Gerardo Diego Perez was on leave for several weeks since the last stipulation.

c) Counsel for defendant believes that failure to grant the above-requested continuance would deny him/her the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

d) The government does not object to the continuance.

e) In addition to the public health concerns cited by the General Orders and presented by the evolving COVID-19 pandemic, an ends-of-justice delay is particularly apt in this case because any trial on this case would involve individuals/witnesses with high-risk factors, such as age, medical conditions, etc.

f) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial Act.

g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of September 13, 2023 to January 24, 2024, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at defendant's request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the

public and the defendant in a speedy trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

IT IS SO STIPULATED.

Dated: September 7, 2023

PHILLIP A. TALBERT
United States Attorney

/s/ KIMBERLY A. SANCHEZ
KIMBERLY A. SANCHEZ
Assistant United States Attorney

Dated: September 7, 2023

/s/ Richard A. Beshwate, Jr.
Richard A. Beshwate, Jr.
Counsel for Defendant LUIS
PEREZ

Dated: September 7, 2023

/s/ Kevin P. Rooney
Kevin P. Rooney
Counsel for Defendant
GERARDO PEREZ

ORDER

IT IS SO ORDERED that the status conference is continued from September 13, 2023, to **January 24, 2024, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe**. Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv). The Court will not grant further continuances, absent good cause, which will be narrowly construed, and will set a trial date at the next status conference if the case is not resolved in advance of that status hearing.

IT IS SO ORDERED.

Dated: September 8, 2023

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE